STATEMENT SUBMITTED

BY THE

UNITED STATES NUCLEAR REGULATORY COMMISSION

TO THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

COMMITTEE ON COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

U.S. ENRICHMENT CORPORATION FINANCIAL REVIEW

PRESENTED BY

CARL J. PAPERIELLO

DEPUTY EXECUTIVE DIRECTOR FOR MATERIALS,

RESEARCH, AND STATE PROGRAMS

SUBMITTED: APRIL 13, 2000

TESTIMONY

U.S. NUCLEAR REGULATORY COMMISSION

APRIL 13, 2000

Mr. Chairman and Members of the Subcommittee:

It is a pleasure to appear before you today to discuss the U.S. Nuclear Regulatory Commission's (NRC's) financial review of the U.S. Enrichment Corporation (USEC) and the status of several important regulatory activities. Under the USEC Privatization Act of 1996 (P.L. 104-134), the NRC is required to determine if the issuance of a certificate would be inimical to the maintenance of a reliable and economical domestic source of enrichment services. In February of this year, NRC initiated a review of USEC's financial condition because NRC's basis for its previous determination had changed when, on February 4, 2000, Standard & Poor's (S&P) downgraded USEC's corporate credit rating to below investment grade.

When NRC recertified USEC's operation of the gaseous diffusion plants in January 1999, USEC had investment-grade credit ratings from both Moody's Investors Service (Moody's) and S&P. On February 3, 2000, USEC announced lower financial projections for fiscal year 2001, a plan to lay off 850 employees, a dividend rate cut to half of its previous value, and a program to repurchase stock. On February 4, 2000, S&P reacted to this announcement by downgrading USEC's credit rating from BBB to BB+, a speculative rating. On February 23, 2000, Moody's downgraded USEC from Baa1 to Ba1, also a speculative-grade rating.

NRC's recertification of USEC in early 1999, in part, was based on USEC's investment-grade credit ratings. Consequently, NRC re-opened the financial review of USEC to evaluate the changed

conditions in light of the changes that occurred in the financial market in February. Reviewing the financial status is consistent with typical agency practice if the basis for authorizing an activity, such as operating the gaseous diffusion plants, changes anytime after the authorization. We believe this is consistent with the authority Congress provided to the NRC in the USEC Privatization Act of 1996.

NRC staff is evaluating the projected financial condition of USEC anticipated for the next five-year period consistent with the NRC guidance developed specifically for USEC. This review examines business plans, projected financial statements, and other information applicable to the critical issues affecting USEC. On February 25, 2000, NRC requested USEC to provide the information to support this review by the end of March. Last month, USEC requested some additional time to assemble and submit the information.

To guide such certification reviews required in 10 CFR Part 76, NRC staff developed a "Standard Review Plan for Recertification of the Gaseous Diffusion Plants," NUREG-1671 (SRP), last updated in February 1999. The section of the SRP describing the financial review was approved by the Commission in November 1997 to include the privatization effort. Chapter 16 of the SRP describes the procedures and criteria for conducting these reviews to implement the requirement in 10 CFR 76.22(b)(2), which states "A certificate of compliance may not be issued to [USEC] if the Commission determines that...the issuance of such a certificate of compliance would be inimical to...the maintenance of a reliable and economical domestic source of enrichment services." The NRC established this requirement to implement section 193(f) of the Atomic Energy Act, et. seq. (42 USC 2243). The SRP includes an examination of the credit strength and financial condition based on credit ratings from rating services such as Moody's and S&P. During the transfer of the certificate to the privatized corporation in July 1998, consistent with the SRP, NRC determined that USEC had a financial structure that included an investment-grade rating from Moody's or S&P and, therefore, met

the long-term economic viability requirements. Under the SRP, a speculative rating could also be acceptable, but additional criteria and an analysis would be required.

NRC staff plans to provide its analysis and recommendations to the Commission in early Summer 2000. Any Commission recommendations, as appropriate, would be forwarded to Congress and the Enrichment Oversight Committee, a group of representatives from several Executive Branch agencies including the Departments of Treasury, Commerce, Energy, and Defense, the Office of Management and Budget, and the National Security Council. Any recommendations could then be used by Congress and the Executive Branch to determine the need for any future government actions.

The NRC staff is also working on several other important regulatory activities associated with the gaseous diffusion plants, including the Paducah seismic modification project, the Paducah enrichment upgrade project, a review of USEC's safety program, and continued oversight to ensure that layoffs at Paducah and Portsmouth do not adversely impact safety and safeguards at either plant. DOE identified in 1995 the vulnerability to earthquakes of two of the process buildings at Paducah. NRC incorporated requirements to strengthen building structures in the Compliance Plan when the plant was certified in 1997. The Compliance Plan is an NRC-approved plan requiring USEC to achieve compliance with regulatory standards on a set schedule. Since that time there have been several program delays in the seismic upgrades due to the identification of several unreviewed safety questions, unexpected construction difficulties, and characterization by the DOE of its Material Storage Areas, where some of the seismic construction work is taking place. DOE and USEC reached agreement on an approach in early February 2000, which allows characterization of the DMSAs by July 2000 and completion of the seismic upgrades by September 2000. Since that time, USEC has continued to make progress on both programs.

In 1999, USEC announced its intent to increase the enrichment level of uranium processed at Paducah. The Paducah Higher Assay Upgrade Project would increase the maximum product enrichment from 2.75 weight percent to 5.0 weight percent uranium-235 (U-235). Because 5 weight percent enriched uranium cannot be used for military applications, there are no national security issues from this upgrade. The increase in enrichments must be authorized by USEC requesting and NRC amending the certificate for Paducah. NRC approval of the enrichment amendment request depends on a number of factors, including the technical adequacy of several licensing submittals that USEC plans to submit between now and September. The NRC expects to review the submittals during the remainder of this year and into early 2001.

The third significant regulatory activity for both Paducah and Portsmouth involves confirmation of the adequacy of the safety programs to protect workers, the public, and the environment. In response to public and Congressional concerns about worker protection and historical exposures as a result of processing and handling reprocessed reactor fuel material from the 1950s to the mid-1970s at Paducah and Portsmouth the NRC conducted special confirmatory inspections in September and October of 1999 of USEC's radiation safety programs. Following the inspections, the NRC held public exit meetings near the Paducah and Portsmouth sites. NRC's inspections concluded that USEC's radiation protection programs at both sites were adequate and met NRC requirements. The inspections also confirmed that the environmental releases of radioactive materials from USEC's operations were well within NRC limits and that the environmental monitoring programs were adequate. However, the inspections identified that some of the workers were not aware of certain radiological hazards or radiation protection requirements and that the radiation protection training did not include site-specific information regarding radiological hazards from transuranic radionuclides. In addition, at Paducah, the NRC concluded that certain unsupported assumptions were being made in calculating internal doses because they did not adequately include a contribution from some transuranic radionuclides. Although the inspection confirmed that the sites' airborne radioactivity

levels and, thus, worker and public risks were low, the NRC concluded that USEC's assumption that there was no contribution from some transuranic radionuclides was not supported by recent measurements. Since the inspections, USEC has taken actions to strengthen its radiation protection programs. The NRC staff continues to review USEC's corrective actions as part of its ongoing inspections.

NRC has also been conducting similar licensing reviews to confirm the adequacy of each site's nuclear criticality safety program to protect against the risk of a nuclear criticality accident. USEC is required by regulation to demonstrate the adequacy of its nuclear criticality safety program in preventing a criticality accident in plant areas where it judges that there is a potential for criticality accidents. The staff has several review actions under way in an attempt to confirm the adequacy of each criticality program and to require USEC to correct or mitigate any significant deficiencies.

The final activity that I would like to discuss briefly is NRC's continuing review of USEC's performance in the transition phase leading up to and following any layoffs. There are regulatory requirements for minimum staffing levels and overtime usage, and reduced staffing can affect critical functions such as plant operations and maintenance. There are two resident inspectors at each gaseous diffusion plant, who regularly observe daily plant operations and interface with the plant staff. The resident inspections are supplemented with specialist inspections in such areas as radiation protection, fire protection, nuclear criticality safety, chemical process safety, and material control and accounting. To ensure that continued staffing changes do not detract from the protection of public health and safety and safeguards at the plants, NRC staff has increased its regulatory oversight during the transition phase. In addition, NRC will conduct increased safety and safeguards inspections, conduct meetings with USEC management, the public, and other stakeholders on the transition activities, and monitor performance trends such as backlogs, operational events, overtime usage, and compliance with regulatory commitments.

In conclusion, we have re-opened our financial evaluation of USEC following the recent corporate credit rating downgrades from Moody's and S&P. Based on the staff evaluation, the Commission will forward any appropriate recommendations to Congress and the Enrichment Oversight Committee for use in making future decisions regarding domestic enrichment services. The NRC staff is also continuing to monitor closely USEC's performance at the plants to ensure protection of public health and safety and safeguards.

Thank you, Mr. Chairman. I would be pleased to answer any questions that you and Members of the Subcommittee may have.